

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LAWRENCE MURRELL, JR.,	:	CIVIL ACTION NO. 1:20-CV-113
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
KATHI MICHAEL, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 22nd day of July, 2021, upon consideration of the order (Doc. 12) issued by Magistrate Judge Susan E. Schwab on January 26, 2021, in which Judge Schwab screened the *pro se* complaint (Doc. 1) of plaintiff Lawrence Murrell, Jr., opined that it failed to state a claim for which relief may be granted, and granted Murrell leave to file an amended complaint within 28 days, (Doc. 12 at 4-10), and further upon consideration of the report (Doc. 13) filed on June 21, 2021, wherein Judge Schwab recommends that the court dismiss Murrell's complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), see FED. R. Civ. P. 41(b), based on Murrell's failure to comply with the court's order to file an amended pleading, but the court observing that, while it does appear from the lack of filings on the docket in the past six months that Murrell may have abandoned this lawsuit, it remains his prerogative to stand on his initial complaint if he so chooses, and thus concluding that dismissal for failure to prosecute based on his ostensible election to do so is not appropriate, but the court further concluding that dismissal of Murrell's complaint for failure to state a claim for which relief may be

granted is appropriate for the reasons set forth in Judge Schwab's initial order, (Doc. 12 at 4-10), which we incorporate herein in full, and the court observing that Murrell has not appealed Judge Schwab's initial order, see FED. R. CIV. P. 72(a), nor has he objected to the report, see FED. R. CIV. P. 72(b)(2), and, following an independent review of Murrell's complaint, the court being in agreement with and adopting in full Judge Schwab's analysis and concluding that the complaint fails to state a claim for which relief may be granted, see 28 U.S.C. § 1915(e)(2), and that granting further leave to amend would be futile because Murrell has previously been granted leave to amend and did not file an amended pleading, see Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002), it is hereby ORDERED that:

1. The court declines to adopt the report (Doc. 13) to the extent it recommends dismissal for failure to comply with a court order pursuant to Rule 41(b).
2. Plaintiff's complaint is DISMISSED for failure to state a claim for which relief may be granted. See 28 U.S.C. § 1915(e)(2).
3. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).
4. The Clerk of Court shall close this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania